

**IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL.**

Writ Petition No. 1468 (S/S) 01
(Old no.30796 of 1999)

Ram Ashish Pratap Chauhan,
S/o Abhai Raj Chauhan,
R/o village Gokulpura, P.S.-Ranipur,
District Mau. -----Petitioner.

Vs.

1. State of U.P. through Inspector General of Police,
P.A.C., Head Quarter, U.P. Lucknow,
2. Sena Nayak (Commander), 46Bn. P.A.C.,
Task Force, Rudrapur, Distt. U.S. Nagar,
3. Secretary, U.P. Police and P.A.C. Recruitment Board,
U.P., Headquarter-Allahabad,
4. Commander, 12 Bn., P.A.C., Fatehpur. -----Respondents

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Sri P.C. Jhingan, learned counsel for the petitioner.
Sri H.M. Raturi, learned Standing Counsel for the State of Uttarakhand/respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri. P.C. Jhingan, learned counsel for the petitioner
and Sri H.M. Raturi, learned Standing Counsel for the State of
Uttarakhand/respondents.

By means of this writ petition, the petitioner has prayed
for the following reliefs:-

- (i) Issue a writ, order or direction in the nature of
certiorari quashing the impugned order dated
14.06.1999 passed by respondent no.2 (annexue-6
to the writ petition),
- (ii) Issue a writ, order or direction in the nature of
mandamus directing the respondents not to give
effect to the order dated 14.06.1999 and pay the
salary to the petitioner month to month,

- (iii) Issue any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper under the circumstances of the case,
- (iv) Award the costs of the petition to the petitioner.

Stand of the petitioner that he was selected as Constable in 46 Battalion in P.A.C. and he successfully completed the training. On 14.06.1999 appointment of the petitioner was cancelled by the impugned order on the ground that a First Information Report was lodged against the petitioner, which was registered as case crime no.161 of 1999 u/s 420,467, 468 and 471 I.P.C. The charges leveled against the petitioner were that in the form filled up by the petitioner for recruitment on the post of Constable in P.A.C., he did not disclose the fact that any case was registered against him prior to 1998 when he was recruited in the P.A.C. and in this regard he submitted false affidavit before the respondents for recruitment as Constable in P.A.C.

It is submitted that the petitioner has now fully exonerated from the charges u/s 420,467,468, 471 I.P.C in criminal case no. 2171-A of 2004 by Judicial Magistrate, Udham Singh Nagar and since the petitioner has been exonerated; he should be reinstated in the service on the post of Constable.

I have perused the judgment passed by the Judicial Magistrate, Udham Singh Nagar on 17.05.2006 in Criminal Case no.2071-A/2004, (case crime no. 161/1999) State vs. Ram Ashish Pratap Chauhan, u/s 420/467/468/471 I.P.C P.S. Rudrapur, by which the Judicial Magistrate, Rudrapur Udham Singh Nagar has exonerated the petitioner from the charges on the basis of report submitted by in-charge Police Station-

Ranipur, district-Mau where a case was registered against the petitioner. It is submitted that from perusal of judgment and order dated 17.05.2006 it is illustrated that on the report submitted by in-charge P.S. Ranipur, district Mau, the concerned Police Station has already submitted final report in crime no.21 of 1994, u/s 380 I.P.C. and prior to submitting final report in the case, no statements were recorded by the Investigating Officer thus the petitioner was not aware to the fact that any case was registered against him u/s 380 I.P.C. at Police Station-Ranipur, district Mau.

Surprisingly, in para-5 of the writ petition, the petitioner has himself asserted that on 16.03.1994, the Investigating Officer of the case has searched the house of the petitioner but no stolen property was recovered from his house which is evident from perusal of search memo prepared by the concerned Investigating Officer. In para-6 of the writ petition it has been further asserted that the Investigating Officer, after investigation of the case had submitted final report under Section 172 of Cr. P.C. Thus, it is worth to mention here that the petitioner himself admits that a search was conducted in the house of petitioner. In these circumstances it cannot be believed that the petitioner was not aware about lodging of First Information Report against him in the concerned Police Station in district Mau.

In any case, the petitioner has submitted that since the judgment of Judicial Magistrate, Rudrapur Udham Singh Nagar has touched its finality and no appeal whatsoever was filed challenging the judgment and order dated 17.05.2006 passed by the Judicial Magistrate, Rudrapur Udham Singh Nagar, by which the petitioner has been acquitted from the charges

levelled against him u/s 420,467,468,471 I.P.C therefore; the petitioner is entitled to be reinstated on the post of Constable in P.A.C.

In the circumstances narrated above, the petitioner may approach before the Authority concerned by making representation and the Authority concerned may pass appropriate order on the representation of the petitioner, if any, moved before him.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

August 22,2007:
NCM: